

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, JANUARY 19TH, 2023 AT 8:17 A.M. IN THE WATER BOARD CONFERENCE ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN NORTH DAKOTA

Managers present: Chairman Luke Siemieniewski, Michael Wyum, Roger Zetocha, and Todd Stein. Also, in attendance was Wendy Willprecht Secretary/Treasurer and Brady Woodard of Moore Engineering. Present via video conference was Moore Engineering's Nathan Trosen, Attorney Sean Fredricks of Ohnstad Twichell, Manager Bruce Speich, Leon Mallberg and Bob Banderet.

Manager Wyum moved to approve the December 15th, 2022 regular meeting minutes, the December 22nd, 2022 special meeting minutes, the November 30th, 2022 Financial Statement and the December 31st, 2022 financial statement. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Zetocha moved to approve the following bills:

084813 Ohnstad Twichell- Drain No. 2-Review-revise draft permit/ Review ROD from State \$650.00; Drain No. 4- Reassessment \$573.61; Drain No. 7- title exam/Krieger title opinion/conference with David Piper \$1280.50; Drain No. 11 eminent domain \$2,467.50/improvement project \$1213.00

Total: \$6184.61

68812 Moore Engineering- Meetings \$1362.50/Permit (6145) \$185; Drain No. 4 reassessment \$1042.50; Drain No. 11 construction \$3880.48/ROW \$185; Drain No. 7 construction \$3250.00/reassessment \$1103.75; Crooked Creek task 3 \$2537.50

Total: \$13,546.73

084811 JBX LLC- Drain No. 2 excavated materials \$11,250.00/mobilize equip. and excavate ditch, replace 120" cmp \$62,200

Total: \$73,450.00

084814 Sargent County Treasurer- Assessments Drain No. 11 \$536.83; Forma Street Assessment \$651.00

Total: \$1187.83

Manager Stein seconded the motion. Upon roll call, the motion carried unanimously.

CD #15075 is set for renewal on January 28th, 2023. The SCWRD held a discussion regarding cashing out the CD to put towards the expenses incurred for the Drain No. 2 improvements. Manager Stein said that we put the money into CD's anticipating future drain maintenance expenses such as the one to Drain No. 2.

A motion was made by Manager Speich to cash CD #15075 and put \$70,000 into the Drain No. 2 account. The remaining amount of the CD will be put back into a CD. The \$70,000 will be paid back to the general fund, by Drain No. 2, at a 2% interest rate. Manager Wyum seconded the motion. Upon roll call, the motion carried unanimously.

Drain No. 11:

Project: There is no update on the project since December.

Reassessment: The Board previously approved the final reassessment list.

Glen Thompson Utility Permit: We have not heard back from Mr. Thompson regarding the utility permit. Mr. Thompson has indicated he would like to resolve his tile access before closing on the Drain 11 right of way acquisition for his property.

Drain No. 4:

Reassessment: Attorney Sean Fredricks sent out draft documents for the Board to review regarding the reassessment. The draft Resolution proposes setting a public hearing on March 1, 2023, at the Forman City Hall at 5:00 p.m., with virtual options available. The Resolution identifies the steps taken by the Board to determine benefits and ultimately includes approval of the preliminary assessment list.

Manager Stein mentioned that there is tiled ground on Sections 5, 8, and 9 that needs to be reconsidered. Trosen of Moore Engineering said that he did not find any tile permits for those sections. Manager Stein said the tiling took place just this year and there is another tiling project that will start next spring. Trosen said he will look into this comment further, in the course of the reassessment, but not for purposes of this preliminary list.

Manager Wyum moved to approve the RESOLUTION SETTING HEARING ON REASSESSMENT REGARDING SARGENT COUNTY DRAIN NO. 4. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Drain No. 7:

Project: Trosen said there is no update. However, he did say that the contractors have been instructed to be ready to complete the project this spring.

Reassessment: Attorney Charles Carvell prepared draft documents for the Board to review regarding the reassessment.

Manager Zetocha moved to approve the RESOLUTION SETTING HEARING ON REASSESSMENT REGARDING SARGENT COUNTY DRAIN NO. 7 for Sargent County. Manager Wyum seconded the motion. Upon roll call vote, the motion carried unanimously. The Resolution set the public hearing for March 1, 2023, at the Senior Citizen's Building in Milnor at 2:00 p.m., also with a virtual option.

Drain No. 9 Extension: No report.

Drain No. 8: Manager Wyum commented that we have sufficient funds in the Drain No. 8 account to now address issues with the drain. Trosen commented that in earlier meetings held with Rutland’s City Council, there was an interest in studying a pumping option. Trosen added that this suggestion of pumping was included in his request to the NDDDES to utilize the hazardous mitigation funds that the state has available to expend. Trosen suggested waiting until he hears back from the NDDDES to determine if there are any cost-share funds available, then considering project options.

Cogswell Tile: We are waiting for an up-date from the NDDDES to find out if cost-share will be available for this project. FEMA dollars would not be available so the state is looking into alternative funding solutions. Trosen expects to hear back from the NDDDES within the next month.

Drain No. 2: More excavation was necessary during the cleanout than anticipated along portions of the Drain. The bills received from JBX reflect the extent of the clean out.

Crooked Creek: Moore Engineering will be meeting with the NRCS to discuss how to close this project out.

084815	Lucas Siemieniewski	Travel	\$71.68
084816	Todd Stein	Travel	\$10.48
084817	Michael Wyum	Travel	\$13.10
084818	Roger Zetocha	Travel	\$32.75
	Bruce Speich	Travel	
DD	Lucas Siemieniewski	PD	\$415.53
DD	Todd Stein	PD	\$415.53
DD	Michael Wyum	PD	\$415.53
DD	Roger Zetocha	PD	\$415.53
DD	Bruce Speich	PD	
DD	Wendy Willprecht	Sec-Treas -Salary less taxes \$457.17	\$2042.83
DD	Stock Grower’s Bank	Withholding Taxes	
DD	ND State Tax Commission	State Tax	
DD	Job Service ND	Unemployment Comp.	

NEW BUSINESS:

Rates: Trosen of Moore Engineering presented a document that contained the project billing schedule for projects with construction contracts and the company’s 2023 billing rates. The billing schedule for projects with construction contracts is the same that it has been for many years. The billing rates are up \$5-\$10/hour depending upon the job description, but remain “preferred rates”, or \$10/hour less than their standard billing rates and there is no mark up on expenses or subconsultants.

Attorney Fredricks presented proposed Ohnstad Twichell rates for 2023. Fredricks indicated he is requesting a \$10/hour increase, from \$215 to \$225 for project-specific matters, and from \$140 to \$150 for general matters.

Manager Wyum made a motion to approve proposed the rates of both Moore Engineering and Ohnstad Twichell for the 2023 year. Manager Stein seconded the motion. Upon roll call, the motion carried unanimously.

Application to Install a Subsurface Water Management System No. 2023-01 for Brian Anderson in the South Half of the North Half of Section 15 in Hall Township

The Board next reviewed *Application to Install a Subsurface Water Management System NO. 2023-01*, filed January 3, 2023, by Applicant Brian Anderson. Under the Application, Applicant seeks to install a 133-acre drain tile system in the South Half of the North Half of Section 15 in Hall Township, Sargent County, North Dakota. The project will include a single pump outlet located in the northwest corner of the South Half of the Northwest Quarter of Section 15; the pump will discharge into the east road ditch along County Highway 14; the discharge will flow north in the east road ditch to the northwest corner of the Northwest Quarter of Section 15; the discharge will then flow east in the south road ditch along North Dakota State Highway 13, along the north boundary of Section 15.

According to County tax roll information supplied by Applicant, Brian Anderson owns the South Half of the North Half of Section 15 of Hall Township where Applicant intends to install the tile system. With regard to downstream parcels, Alice Wehlander owns the North Half of the North Half of Section 15 of Hall Township.

The Board expressed concerns about the potential for tile discharge to contribute to potential inundation on the Wehlanders' property. The tile permitting statute does not allow the Board to require Mr. Anderson to obtain any type of consent or easement from the Wehlanders, but the law does allow (and require) the Board to provide notice of the project and the permit to the Wehlanders as downstream landowners. Mr. Fredricks will be sure to add both Terry Wehlander and Donald Wehlander as recipients, in addition to Alice.

Manager Wyum moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2023-01*, filed January 3, 2023, for Brian Anderson in the South Half of the North Half of Section 15 in Hall Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-01, subject to the following conditions:

1. Applicant will install and maintain erosion protection at the outlet into the County Highway 14 road right of way.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the South Half of the North Half of Section 15 in Hall Township under any blanket easements, or otherwise beyond the Water District's existing easement.
4. Applicant will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Sargent County Water Resource District.
5. Applicant must remove silt or vegetation, or repair erosion or scour damages *directly* caused by Applicant's tile system, but only up to one mile downstream from the project outlet.
6. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-01 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

With regard to condition #5, Applicant's obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by a downstream landowner or road authority that Applicant's tile system *directly* caused accumulation of silt or vegetation, erosion, or scouring.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board will recommend that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from the Sargent County Highway Department to discharge into or otherwise utilize any of its County Highway 14 right of way.
2. The Board recommends that Applicant obtain written consent from the North Dakota Department of Transportation to discharge into or otherwise utilize any of its Highway 13 right of way.
3. The Board recommends that Applicant obtain written consent from the Wehlanders to discharge upon or over their property in the North Half of the North Half of Section 15 of Hall Township.
4. The Board recommends that Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-01, and Applicant's downstream flow map to the Department of Water Resources, the Sargent County Highway Department, the North Dakota Department of Transportation, Alice Wehlander, Terry Wehlander, Donald Wehlander, and Southeast Water Users District.

There was discussion amongst Attorney Fredricks and the Managers regarding some of the bills at the Legislature that could impact water resource districts.

DSJTB bills for approval -

DVEC - electricity -	\$ 131.00
**Special Assessments received:	\$46,104.76
Maintenance Account Balance:	\$ 13,648.23
Improvement Account Balance:	\$109,909.70

The above balances are as of December 31st, 2022

Approval of the bill to DVEC was made during the Dickey-Sargent Joint Board meeting.

Dickey County Water Resource District to reimburse Willprecht' s hours at \$650/year-not yet received

Richland-Sargent Drain #1 Maintenance Fund Financial Statement

BEGINNING BALANCE December 1, 2022 **\$401,685.58**

REVENUE:

Rt. #22-084	Richland Co. Tax & Business	\$17.20
Rt. #22-086	Sargent Co. Tax & Business	\$752.01

TOTAL REVENUE RECEIVED: **\$769.21**

EXPENDITURES:

Ck. 19043	Moore Engineering, Inc.	\$11,365.16
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TOTAL EXPENDITURES **\$11,365.16**

TOTAL BALANCE December 31st, 2022 **\$391,089.63**

RS #1 MAINTENANCE CHECKING ACCOUNT BALANCE **\$0.59**

RS #1 MAINTENANCE SAVINGS ACCOUNT BALANCE **\$391,089.04**

TOTAL MAINTENANCE FUND BALANCE December 31st, 2022 **\$391,089.63**

A motion was made by Manager Stein and seconded by Manager Zetocha to approve the bill to Moore Engineering. Upon roll call, the motion carried unanimously.

The meeting adjourned at 9:19 a.m.

APPROVED:

LUCAS SIEMIENIEWSKI, CHAIRMAN

ATTEST:

WENDY WILLPRECHT SECRETARY-TREASURER